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7. Master and Servant (§ 280*)—Injuries—Action—Question for Jury—Assumption of Risk.—In such case, evidence that plaintiff did not and could not know of the location of the caboose, and that the track was signaled "clear," held not to show assumption of risk.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 981-986; Dec. Dig. § 280.* 9 Va.-W. Va. Enc. Dig. 726.]

8. Master and Servant (§ 206, 217 (1)*)—Injuries—Action—Question for Jury—Assumption of Risk.—A servant assumes all the ordinary, usual, and normal risks of the business after the master has used reasonable care for his protection, and also all such other risks as he knows of, or which were so unquestionably plain and clear that he must have known of their existence and their danger to him.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 550, 574; Dec. Dig. § 206, 217 (1).* 9 Va.-W. Va. Enc. Dig. 693.]

Error to Circuit Court of City of Clifton Forge.

Action by J. W. Meadows against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

J. M. Perry, of Staunton, for plaintiff in error. Affirmed.

O. B. Harvey, of Clifton Forge, for defendant in error.

NEW MARKET & SPERRYVILLE TURNPIKE CO. *v.* KEYSER,
Commonwealth's Atty., et al.

June 8, 1916.

[89 S. E. 251.]

1. Turnpikes and Toll Roads (§ 3*)—Statutory Provisions.—The act approved March 21, 1914 (Acts 1914, c. 162), amending and re-enacting the act approved January 18, 1904 (Acts 1902-04, c. 609, subc. 10, § 8), did not by implication repeal in toto the act relating to turnpike companies approved March 17, 1906 (Acts 1906, c. 297), but amended it in certain particulars.

[Ed. Note.—For other cases, see Turnpikes and Toll Roads, Cent. Dig. § 4; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 378.]

2. Statutes (§ 158*)—Repeal by Implication.—Repeals by implication are not favored, the presumption being against the intention to repeal where express terms are not used or the later statute does not amend the former.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. § 228; Dec. Dig. § 158.* 12 Va.-W. Va. Enc. Dig. 780.]

3. Turnpikes and Toll Roads (§ 31*)—Action to Forfeit Franchise—Statutes.—Under Acts 1906, c. 297, providing for hearing of a turn-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

pike company before forfeiture of its franchise because of failure to maintain its turnpike, in an action for forfeiture, evidence that substantial work on the turnpike, was begun within four months from filing report of viewers that it was out of repair, and continued until stopped by adverse weather conditions persisting to the date of hearing, is admissible.

[Ed. Note.—For other cases, see Turnpikes and Toll Roads, Cent. Dig. §§ 79, 81-83, 85; Dec. Dig. § 31.* 13 Va.-W. Va. Enc. Dig. 380.]

4. Turnpikes and Toll Roads (§ 20*)—Maintenance—Qualifications of Viewers—"Officer."—The requirement in Acts 1914, c. 162, that the viewers of a turnpike road to ascertain whether it is in repair, appointed by the court, shall be freeholders, does not violate Const. art. 2, § 32, that "every person qualified to vote shall be eligible to any office of the state, or of any county, city, town or other subdivision of the state," since such viewers are not officers of the state or a state subdivision, but appointees of the court to perform a specified service.

[Ed. Note.—For other cases, see Turnpikes and Toll Roads, Cent. Dig. §§ 63-65; Dec. Dig. § 20.* 5 Va.-W. Va. Enc. Dig. 10.]

For other definitions, see Words and Phrases, First and Second Series, Officer.]

Error to Circuit Court, Page County.

Petition by W. F. Keyser, Commonwealth's Attorney, and others, against the New Market & Sperryville Turnpike Company, to declare an abandonment of defendant's turnpike. Judgment for plaintiffs, and defendant brings error. Reversed and remanded.

Walton & Brother, of Luray, for plaintiff in error.

R. S. Parks, IV. F. Keyser, and *R. F. Berry*, all of Luray, for defendants in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.